

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CIVIL REVISION APPLICATION No 491 to 493 of 1982

For Approval and Signature:

Hon'ble MR.JUSTICE M.S.SHAH

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LALCHAND RATANCHAND

Versus

HEIRS OF KANTILA F GHIA

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1. Whether Reporters of Local Papers may be allowed  
to see the judgment ?
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy  
of judgment?
4. Whether this case involves a substantial question  
of law as to the interpretation of the  
Constitution of India, 1950 or any order made  
thereunder?
5. Whether it is to be circulated to the Civil  
Judge?

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Appearance:

MS MAYA N BHAVNANI for Petitioner

MR ASHOK L SHAH for Respondent No. 3

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CORAM : MR.JUSTICE M.S.SHAH

Date of decision: 22/04/99

ORAL JUDGEMENT

These revision applications are directed against

the common judgement and decree dated 31st August 1981 passed by the appellate bench of Small Causes Court at Ahmedabad in Civil Appeal Nos.222 to 224 of 1978. By the said judgement the appellate bench directed the defendant-opponents (appellants in First Appeal No.698 of 1977) to hand over the possession of the suit premises involved in HRP Suit No.337, 338 and 339 of 1974 to the landlords of the suit premises by 31.3.1982. While issuing Rule on the Civil Revision Applications, this Court had granted interim stay of execution of the decrees of the appellate bench. That is how the petitioners are still in possession of the suit shops. The present suits were filed against the petitioners by the respondent-landlord on the ground that the Municipal Corporation had served notices u/s 212 of the BPMC Act for demolishing the suit premises for the purpose of widening the road. The trial Court dismissed the suit as notice issued by the Corporation u/s 212(2) of the BPMC Act was challenged by the petitioners-tenants and City Civil Court had granted interim injunction restraining the respondent-corporation from enforcing the said notice and Civil Suit No.388 of 1974 was still pending when the learned Judge of the Small Causes Court decided the eviction suits filed by the landlord in March 1978.

2 The landlord therefore carried the matters in appeal before the appellate bench of the Small Causes Court. The appellate bench accepted the contention of the landlord and passed the decree of eviction in view of the notices issued by the Ahmedabad Municipal Corporation u/s 212(2) of the BPMC Act.

3 Since the learned counsel for the petitioner has not remained present in spite of opportunity given on two previous occasions, the Court has considered the grounds urged in the memos of the revision applications. The principal ground urged in the memos of the revision application is pendency of First Appeal No.698 of 1979 before this Court wherein this Court had granted interim stay against the enforcement of the notice u/s 212(2) of the BPMC Act. Since that appeal has been dismissed by a separate judgement delivered today, this ground would, obviously, not survive.

4 In the result, these revision applications are dismissed. However, the petitioners are given time upto 31.12.1999 to vacate the suit premises. Subject to the aforesaid modification, these Civil Revision Applications are dismissed. Notice in each of the matters is discharged.

The Registry shall send a copy of this judgement  
to each of the petitioners by registered post A.D. bu  
31/7.1999.

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(mohd)